

State of Arizona  
Senate  
Forty-fifth Legislature  
First Regular Session  
2001

CHAPTER 350

**SENATE BILL 1281**

AN ACT

AMENDING SECTIONS 8-322, 36-411, 36-883.02, 36-3008, 41-619.53, 41-1758.01, 41-1758.02, 41-1758.03, 41-1964, 41-1967, 41-2814 AND 46-141, ARIZONA REVISED STATUTES; RELATING TO FINGERPRINTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-322, Arizona Revised Statutes, is amended to  
3 read:

4 8-322. Juvenile probation services fund; program and contract  
5 requirements

6 A. The juvenile probation services fund is established. The supreme  
7 court shall administer the fund. Monies in the juvenile probation services  
8 fund are exempt from the provisions of section 35-190 relating to lapsing of  
9 appropriations.

10 B. The supreme court shall allocate monies in the fund or appropriated  
11 to the superior court's juvenile probation services fund line based on its  
12 determination of the need for and probable effectiveness of each plan  
13 submitted pursuant to this article. The supreme court shall require that the  
14 presiding juvenile court judge submit in accordance with rules of the supreme  
15 court a plan for the expenditure of monies that are allocated to the juvenile  
16 court pursuant to this section. The supreme court may reject a plan or a  
17 modification of a plan that is submitted pursuant to this subsection.

18 C. Monies shall be used to fund programs, the participation in which  
19 a juvenile probation officer or community based alternative program  
20 administered by the juvenile court has required as a condition of diversion  
21 pursuant to section 8-321. Monies shall also be used to fund programs to  
22 reduce the number of repetitive juvenile offenders and to provide services  
23 for juveniles who are on probation, including treatment, testing, independent  
24 living programs and residential, foster and shelter care, and for children  
25 who are referred to the juvenile court for incorrigibility or delinquency  
26 offenses. Monies may be used to provide the cost of care for persons who are  
27 under twenty-one years of age and who were placed in an independent living  
28 program or in foster care before eighteen years of age, who voluntarily  
29 remain in care and who are currently enrolled in and regularly attending any  
30 high school or certificate of equivalency program. Pursuant to section  
31 8-341, subsection N, monies may also be used to provide services for persons  
32 who are under twenty-one years of age and who voluntarily participate in  
33 treatment. Except pursuant to section 8-341, subsection N, the cost of care  
34 shall not be continued for a person who has received a high school diploma  
35 or certificate of equivalency. These services shall be approved by the  
36 supreme court. The juvenile court may develop and staff such programs, or  
37 the supreme court may enter into the purchase of service contracts with  
38 community youth serving agencies.

39 D. The administrative office of the courts may use monies appropriated  
40 to the fund for the purchase of detention facilities, to expand existing  
41 detention centers or to contract with private and public entities to expand  
42 or operate secure care facilities.

43 E. All monies that are distributed or expended from the fund shall be  
44 used to supplement, not supplant, funding to the juvenile court by the  
45 county.

1 F. The supreme court shall contract for a periodic evaluation to  
2 determine if the provisions of this article reduce the number of repetitive  
3 juvenile offenders. The supreme court shall send a copy of the evaluation  
4 to the speaker of the house of representatives, the president of the senate  
5 and the governor.

6 G. A contract that is entered into between the supreme court or the  
7 county attorney and any contract provider to provide services pursuant to  
8 section 8-321 or this section to juveniles shall provide that, as a condition  
9 of employment, personnel who are employed by any contract provider, whether  
10 paid or not, and who are required or allowed to provide services directly to  
11 juveniles shall have valid class one or class two fingerprint clearance cards  
12 issued pursuant to title 41, chapter 12, article 3.1 or shall apply for a  
13 class one or class two fingerprint clearance card within seven working days  
14 of employment.

15 H. The contractor shall assume the costs of fingerprint checks and may  
16 charge these costs to its fingerprinted personnel.

17 I. A service contract or license with any contract provider that  
18 involves the employment of persons who have contact with juveniles shall  
19 provide that the contract or license may be canceled or terminated  
20 immediately if a person certifies pursuant to subsections L and M of this  
21 section that the person is awaiting trial on or has been convicted of any of  
22 the offenses listed in subsections L and M of this section in this state or  
23 of acts committed in another jurisdiction that would be offenses in this  
24 state or if the person does not possess or is denied issuance of a valid  
25 fingerprint clearance card.

26 J. A contract provider may avoid cancellation or termination of the  
27 contract or license under subsection I of this section if a person who does  
28 not possess or has been denied issuance of a valid fingerprint clearance card  
29 or who certifies pursuant to subsections L and M of this section that the  
30 person has been convicted of or is awaiting trial on any of the offenses  
31 ~~listed in subsection L, paragraphs 1, 2, 3, 6, 7, 9, 15 through 18 and 21 of~~  
32 ~~this section~~ PURSUANT TO SECTION 41-1758.03, SUBSECTION F is immediately  
33 prohibited from employment or service with the licensee or contract provider  
34 in any capacity requiring or allowing contact with juveniles.

35 K. A contract provider may avoid cancellation or termination of the  
36 contract or license under subsection I of this section if a person who does  
37 not possess or has been denied issuance of a valid fingerprint clearance card  
38 or who certifies pursuant to subsections L and M of this section that the  
39 person has been convicted of or is awaiting trial on any of the offenses  
40 ~~listed in subsection L, paragraphs 4, 5, 8, 10 through 14, 19, 20, 22 and 23~~  
41 ~~of this section~~ PURSUANT TO SECTION 41-1758.03, SUBSECTION G is immediately  
42 prohibited from employment or service with the licensee or contract provider  
43 in any capacity requiring or allowing the person to provide direct services  
44 to juveniles unless the person is granted a good cause exception pursuant to  
45 section 41-619.55.

1 L. Personnel who are employed by any contract provider, whether paid  
2 or not, and who are required or allowed to provide services directly to  
3 juveniles shall certify on forms provided by the contracting agency and  
4 notarized whether they are awaiting trial on or have ever been convicted of  
5 any of the following criminal offenses PURSUANT TO SECTION 41-1758.03,  
6 SUBSECTIONS F AND G in this state or similar offenses in another state or  
7 jurisdiction. :-

- 8 ~~1. Sexual abuse of a minor.~~
- 9 ~~2. Incest.~~
- 10 ~~3. First or second degree murder.~~
- 11 ~~4. Kidnapping.~~
- 12 ~~5. Arson.~~
- 13 ~~6. Sexual assault.~~
- 14 ~~7. Sexual exploitation of a minor.~~
- 15 ~~8. Felony offenses involving contributing to the delinquency of a~~  
16 ~~minor.~~
- 17 ~~9. Commercial sexual exploitation of a minor.~~
- 18 ~~10. Felony offenses involving sale, distribution or transportation of,~~  
19 ~~offer to sell, transport or distribute or conspiracy to sell, transport or~~  
20 ~~distribute marijuana, dangerous drugs or narcotic drugs.~~
- 21 ~~11. Felony offenses involving the possession or use of marijuana,~~  
22 ~~dangerous drugs or narcotic drugs.~~
- 23 ~~12. Burglary.~~
- 24 ~~13. Aggravated or armed robbery.~~
- 25 ~~14. Robbery.~~
- 26 ~~15. A dangerous crime against children as defined in section 13-604.01.~~
- 27 ~~16. Child abuse.~~
- 28 ~~17. Sexual conduct with a minor.~~
- 29 ~~18. Molestation of a child.~~
- 30 ~~19. Manslaughter.~~
- 31 ~~20. Assault or aggravated assault.~~
- 32 ~~21. Exploitation of minors involving drug offenses.~~
- 33 ~~22. A violation of section 28-1381, 28-1382 or 28-1383.~~
- 34 ~~23. Offenses involving domestic violence.~~

35 M. Personnel who are employed by any contract provider, whether paid  
36 or not, and who are required or allowed to provide services directly to  
37 juveniles shall certify on forms provided by the contracting agency and  
38 notarized whether they have ever committed any act of sexual abuse of a  
39 child, including sexual exploitation and commercial sexual exploitation, or  
40 any act of child abuse.

41 N. Federally recognized Indian tribes or military bases may submit and  
42 the supreme court shall accept certifications that state that personnel who  
43 are employed or who will be employed during the contract term and who provide  
44 services directly to juveniles have not been convicted of, have not admitted

1 committing or are not awaiting trial on any offense under subsection L of  
2 this section.

3 O. Adult clients of a contract provider who are receiving treatment  
4 services are exempt from the requirements of this section, unless they  
5 provide services directly to juveniles without supervision.

6 P. Volunteers who provide services to juveniles under the direct  
7 visual supervision of the contractor's or licensee's employees are exempt  
8 from the fingerprinting requirements of this section.

9 Q. The contracting agency shall notify the department of public safety  
10 if the contracting agency receives credible evidence that a person who  
11 possesses a valid class one or class two fingerprint clearance card either:

12 1. Is arrested for or charged with an offense listed in section  
13 41-1758.03, subsection B or F.

14 2. Falsified information on the form required by subsection L of this  
15 section.

16 Sec. 2. Section 36-411, Arizona Revised Statutes, is amended to read:

17 36-411. Residential care institutions; home health agencies;  
18 fingerprinting; definitions

19 A. ~~Beginning on November 1, 1999 and~~ Subject to legislative  
20 appropriations, as a condition of licensure or continued licensure of a  
21 residential care institution, a nursing care institution or a home health  
22 agency and as a condition of employment in a residential care institution,  
23 a nursing care institution or a home health agency, employees and owners of  
24 residential care institutions, nursing care institutions or home health  
25 agencies or contracted persons who provide direct care, home health services  
26 or supportive services and who are not licensed or certified by a health  
27 profession HAVE NOT BEEN SUBJECT TO THE FINGERPRINTING REQUIREMENTS OF A  
28 HEALTH PROFESSIONAL'S regulatory board pursuant to title 32 shall submit a  
29 full set of fingerprints to the department of public safety for a state and  
30 federal criminal records check pursuant to section 41-1750 and Public Law  
31 92-544. The department of public safety may exchange this fingerprint data  
32 with the federal bureau of investigation. The department of public safety  
33 shall maintain records relating to fingerprinting conducted pursuant to this  
34 section HAVE VALID CLASS ONE OR CLASS TWO FINGERPRINT CLEARANCE CARDS THAT  
35 ARE ISSUED PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1 OR SHALL APPLY FOR  
36 A CLASS ONE OR CLASS TWO FINGERPRINT CLEARANCE CARD WITHIN TWENTY WORKING  
37 DAYS OF EMPLOYMENT OR BEGINNING VOLUNTEER WORK EXCEPT AS PROVIDED IN  
38 SUBSECTIONS F, G AND H OF THIS SECTION.

39 B. A health professional who has complied with the fingerprinting  
40 requirements of the health professional's regulatory board as a condition of  
41 licensure or certification pursuant to title 32 is not required to submit an  
42 additional set of fingerprints to the department of public safety pursuant  
43 to this section.

44 C. Owners shall make documented, good faith efforts to contact  
45 previous employers to obtain information or recommendations that may be

1 relevant to a person's fitness to work in a residential care institution,  
2 nursing care institution or home health agency.

3 D. An employee, an owner or a contracted person or a facility on  
4 behalf of the employee, the owner or the contracted person shall submit a  
5 notarized form COMPLETED APPLICATION that is provided by the department of  
6 public safety within twenty days after the date the person begins work. and  
7 that indicates whether the person has been convicted of or is awaiting trial  
8 on any of the following criminal offenses in this state or similar offenses  
9 in another state or jurisdiction:

- 10 1. ~~Abuse of a vulnerable adult as defined in section 13-3623.~~
- 11 2. ~~Sexual abuse.~~
- 12 3. ~~Incest.~~
- 13 4. ~~First or second degree murder.~~
- 14 5. ~~Kidnapping.~~
- 15 6. ~~Arson.~~
- 16 7. ~~Sexual assault.~~
- 17 8. ~~Sexual exploitation of a minor.~~
- 18 9. ~~Contributing to the delinquency of a minor.~~
- 19 10. ~~Commercial sexual exploitation of a minor.~~
- 20 11. ~~Felony offenses involving distribution of marijuana or dangerous~~  
21 ~~or narcotic drugs.~~
- 22 12. ~~Theft.~~
- 23 13. ~~Robbery.~~
- 24 14. ~~A dangerous crime against children as defined in section 13-604.01.~~
- 25 15. ~~Child abuse.~~
- 26 16. ~~Sexual conduct with a minor.~~
- 27 17. ~~Molestation of a child.~~
- 28 18. ~~Manslaughter.~~
- 29 19. ~~Aggravated assault.~~
- 30 20. ~~Domestic violence.~~
- 31 21. ~~Fraud and fraudulent schemes.~~
- 32 22. ~~Assault within the last five years from the date of submitting a~~  
33 ~~full set of fingerprints to the department.~~
- 34 23. ~~Possession or use of a dangerous or narcotic drug within the last~~  
35 ~~five years from the date of submitting a full set of fingerprints to the~~  
36 ~~department.~~

37 E. The department of public safety shall not approve the application  
38 if the department cannot determine within one hundred twenty days after it  
39 receives the federal criminal records check whether the person is awaiting  
40 trial on or has been convicted of committing any of the offenses listed in  
41 subsection D of this section or any similar offenses in another state or  
42 jurisdiction. The department of public safety shall identify the specific  
43 crime or crimes appearing in the criminal records check only in the  
44 notification provided to the person fingerprinted. A decision made pursuant  
45 to this subsection is a final administrative decision as defined in section

1 ~~41-1092 and is subject to judicial review pursuant to title 12, chapter 7,~~  
2 ~~article 6. The department of public safety may exchange the results of the~~  
3 ~~criminal records check with the department of health services for the purpose~~  
4 ~~of ensuring compliance with licensing regulations of assisted living~~  
5 ~~facilities, home health agencies and nursing care institutions.~~

6 ~~F. Except as provided in subsections G, H and I of this section, a~~  
7 ~~residential care institution, nursing care institution or home health agency~~  
8 ~~shall not allow any person or contracted person to continue to provide direct~~  
9 ~~care, home health services or supportive services if the notarized form or~~  
10 ~~the results of that person's criminal records check show that the person is~~  
11 ~~awaiting trial on or has been convicted of an offense listed in subsection~~  
12 ~~D of this section or any similar offense.~~

13 ~~E. A RESIDENTIAL CARE INSTITUTION, NURSING CARE INSTITUTION OR HOME~~  
14 ~~HEALTH AGENCY SHALL NOT ALLOW A PERSON OR CONTRACTED PERSON TO CONTINUE TO~~  
15 ~~PROVIDE DIRECT CARE, HOME HEALTH SERVICES OR SUPPORTIVE SERVICES IF THE~~  
16 ~~PERSON HAS BEEN DENIED A CLASS TWO FINGERPRINT CLEARANCE CARD PURSUANT TO~~  
17 ~~TITLE 41, CHAPTER 12, ARTICLE 3.1, HAS BEEN DENIED APPROVAL PURSUANT TO THIS~~  
18 ~~SECTION BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION OR HAS~~  
19 ~~NOT RECEIVED AN INTERIM APPROVAL FROM THE BOARD OF FINGERPRINTING PURSUANT~~  
20 ~~TO SECTION 41-619.55, SUBSECTION H.~~

21 ~~G. F. Volunteers who provide services to residents under the direct~~  
22 ~~visual supervision of a previously screened owner or employee are exempt from~~  
23 ~~the fingerprinting and criminal records check FINGERPRINT CLEARANCE CARD~~  
24 ~~requirements of this section.~~

25 ~~H. G. NOTWITHSTANDING THE REQUIREMENTS OF SECTION 41-1758.02,~~  
26 ~~SUBSECTION B, a person who provides direct care, home health services or~~  
27 ~~supportive services for a residential care institution, home health agency~~  
28 ~~or nursing care institution after meeting the fingerprinting and criminal~~  
29 ~~records check requirements of this section is not required to meet the~~  
30 ~~fingerprint and criminal records check requirements of this section again if~~  
31 ~~that person REMAINS EMPLOYED BY THE SAME EMPLOYER OR changes employment~~  
32 ~~within two years after satisfying the requirements of this section.~~

33 ~~H. NOTWITHSTANDING THE REQUIREMENTS OF SECTION 41-1758.02, SUBSECTION~~  
34 ~~B, A PERSON WHO HAS RECEIVED APPROVAL PURSUANT TO THIS SECTION BEFORE THE~~  
35 ~~EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION AND WHO REMAINS EMPLOYED BY~~  
36 ~~THE SAME EMPLOYER IS NOT REQUIRED TO APPLY FOR A CLASS ONE OR CLASS TWO~~  
37 ~~FINGERPRINT CLEARANCE CARD.~~

38 ~~I. If the notarized form or the results of the criminal records check~~  
39 ~~show that the person is awaiting trial on or has been convicted of any of the~~  
40 ~~offenses listed in subsection D, paragraphs 6, 9, 12, 13, 20, 21, 22 and 23~~  
41 ~~of this section or any similar offense, the person may request a good cause~~  
42 ~~exception hearing with the board of fingerprinting pursuant to section~~  
43 ~~41-619.55. If the board of fingerprinting grants a good cause exception the~~  
44 ~~person may continue to provide direct care, home health services or~~

~~supportive services for a residential care institution, nursing care institution or home health agency.~~

~~J. Costs associated with fingerprinting and costs associated with obtaining a criminal records check are the responsibility of the employer or the applicant.~~

~~K. I. For the purposes of this section:~~

~~1. "Home health services" has the same meaning prescribed in section 36-151.~~

~~2. "Supportive services" has the same meaning prescribed in section 36-151.~~

~~Sec. 3. Section 36-883.02, Arizona Revised Statutes, is amended to read:~~

~~36-883.02. Child care personnel; fingerprints; exemptions; definition~~

~~A. Except as provided in subsections SUBSECTION B and C of this section, child care personnel, including volunteers, shall submit the form prescribed in subsection D of this section to the employer and shall have valid class one or class two fingerprint clearance cards issued pursuant to title 41, chapter 12, article 3.1 or shall apply for a class one or class two fingerprint clearance card within seven working days of employment or beginning volunteer work.~~

~~B. Exempt from the fingerprinting requirements of subsection A of this section are parents, including foster parents and guardians, who are not employees of the child care facility and who participate in activities with their children under the supervision of and in the presence of child care personnel.~~

~~C. Applicants and employees who are fingerprinted in accordance with sections 15-512 and 15-534 are exempt from the fingerprinting requirements of subsection A of this section.~~

~~D. C. Child care personnel shall certify on forms that are provided by the department and notarized that:~~

~~1. They are not awaiting trial on or have never been convicted of or admitted in open court or pursuant to a plea agreement committing any of the following criminal offenses OFFENSES LISTED IN SECTION 41-1758.03, SUBSECTION B OR F in this state or similar offenses in another state or jurisdiction:~~

~~(a) Sexual abuse of a minor.~~

~~(b) Incest.~~

~~(c) First or second degree murder.~~

~~(d) Kidnapping.~~

~~(e) Arson.~~

~~(f) Sexual assault.~~

~~(g) Sexual exploitation of a minor.~~

~~(h) Felony offenses involving contributing to the delinquency of a minor.~~

~~(i) Commercial sexual exploitation of a minor.~~



~~(j) Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs.~~

~~(k) Felony offenses involving the possession or use of marijuana, dangerous drugs or narcotic drugs.~~

~~(l) Burglary.~~

~~(m) Aggravated or armed robbery.~~

~~(n) Robbery.~~

~~(o) A dangerous crime against children as defined in section 13-604.01.~~

~~(p) Child abuse.~~

~~(q) Sexual conduct with a minor.~~

~~(r) Molestation of a child.~~

~~(s) Manslaughter.~~

~~(t) Assault or aggravated assault.~~

~~(u) Exploitation of minors involving drug offenses.~~

~~(v) A violation of section 28-1381, 28-1382 or 28-1383.~~

~~(w) Offenses involving domestic violence.~~

2. They are not parents or guardians of a child adjudicated to be a dependent child as defined in section 8-201.

3. ~~They have not been denied a license to operate a facility for the care of children in this state or another state or had a license or certificate to operate such a facility revoked for reasons that relate to the endangerment of the health and safety of children.~~

3. THEY HAVE NOT BEEN DENIED OR HAD REVOKED A CERTIFICATE TO OPERATE A CHILD CARE GROUP HOME OR A LICENSE TO OPERATE A CHILD CARE FACILITY IN THIS OR ANY OTHER STATE OR THAT THEY HAVE NOT BEEN DENIED OR HAD REVOKED A CERTIFICATION TO WORK IN A CHILD CARE FACILITY OR CHILD CARE GROUP HOME.

E. D. Employers of child care personnel shall make documented, good faith efforts to contact previous employers of child care personnel to obtain information or recommendations that may be relevant to an individual's fitness for employment in a child care facility.

F. E. The notarized forms are confidential.

G. ~~A person who is awaiting trial on or who has been convicted of or who has admitted in open court or pursuant to a plea agreement to committing a criminal offense listed in subsection D, paragraph 1, subdivision (a), (b), (c), (d), (f), (g), (i), (o), (p), (q), (r) or (u) or paragraph 2 or 3 of this section is prohibited from being registered as child care personnel and from being employed in any capacity in a child care facility.~~

H. ~~A person who is awaiting trial on or who has been convicted of or who has admitted in open court or pursuant to a plea agreement to committing a criminal offense listed in subsection D, paragraph 1, subdivision (e), (h), (j), (k), (l), (m), (n), (s), (t), (v) or (w) of this section shall not work in a child care facility without direct visual supervision unless the person has applied for and received the required fingerprint clearance card pursuant~~

1 ~~to section 41-1758 and is registered as child care personnel. A person who~~  
2 ~~is subject to this subsection shall not be employed in any capacity in a~~  
3 ~~child care facility if that person is denied the required fingerprint~~  
4 ~~clearance card.~~

5 F. A CHILD CARE FACILITY SHALL NOT ALLOW A PERSON TO BE EMPLOYED OR  
6 VOLUNTEER IN THE FACILITY IN ANY CAPACITY IF THE PERSON HAS BEEN DENIED A  
7 CLASS TWO FINGERPRINT CLEARANCE CARD PURSUANT TO TITLE 41, CHAPTER 12,  
8 ARTICLE 3.1 OR HAS NOT RECEIVED AN INTERIM APPROVAL FROM THE BOARD OF  
9 FINGERPRINTING PURSUANT TO SECTION 41-619.55, SUBSECTION H.

10 ~~F.~~ G. The employer shall notify the department of public safety if  
11 the employer receives credible evidence that any child care personnel either:

12 1. Is arrested for or charged with an offense listed in section  
13 41-1758.03, subsection B or F.

14 2. Falsified information on the form required by subsection ~~D~~ C of  
15 this section.

16 ~~F.~~ H. For the purposes of this section, "child care personnel" means  
17 any employee or volunteer working at a child care facility.

18 Sec. 4. Section 36-3008, Arizona Revised Statutes, is amended to read:

19 36-3008. Shelters for victims of domestic violence; personnel;  
20 fingerprinting

21 A. Employees and volunteers of a shelter for victims of domestic  
22 violence, as defined in section 36-3001, shall have valid class one or class  
23 two fingerprint clearance cards that are issued pursuant to title 41, chapter  
24 12, article 3.1 or shall apply for a class one or class two fingerprint  
25 clearance card within seven working days of employment or beginning volunteer  
26 work. Federally recognized Indian tribes or military bases may submit and  
27 the department shall accept certifications that state that employees of a  
28 shelter for victims of domestic violence who are employed by a shelter and  
29 who provide services directly to victims of domestic violence have not been  
30 convicted of, have not admitted committing or are not awaiting trial on any  
31 offense under subsection B, paragraph 1 of this section.

32 B. Personnel shall certify on forms that are provided by the  
33 department and notarized that:

34 1. They are not awaiting trial on and have never been convicted of or  
35 admitted committing any of the following criminal offenses PURSUANT TO  
36 SECTION 41-1758.03, SUBSECTIONS F AND G in this state or similar offenses in  
37 another state or jurisdiction. ~~:-~~

38 ~~(a) Sexual abuse of a minor.~~

39 ~~(b) Incest.~~

40 ~~(c) First or second degree murder.~~

41 ~~(d) Kidnapping.~~

42 ~~(e) Arson.~~

43 ~~(f) Sexual assault.~~

44 ~~(g) Sexual exploitation of a minor.~~

1 ~~(h) Felony offenses involving contributing to the delinquency of a~~  
2 ~~minor.~~

3 ~~(i) Commercial sexual exploitation of a minor.~~

4 ~~(j) Felony offenses involving sale, distribution or transportation of,~~  
5 ~~offer to sell, transport or distribute or conspiracy to sell, transport or~~  
6 ~~distribute marijuana, dangerous drugs or narcotic drugs.~~

7 ~~(k) Felony offenses involving the possession or use of marijuana,~~  
8 ~~dangerous drugs or narcotic drugs.~~

9 ~~(l) Burglary.~~

10 ~~(m) Aggravated or armed robbery.~~

11 ~~(n) Robbery.~~

12 ~~(o) A dangerous crime against children as defined in section~~  
13 ~~13-604.01.~~

14 ~~(p) Child abuse.~~

15 ~~(q) Sexual conduct with a minor.~~

16 ~~(r) Molestation of a child.~~

17 ~~(s) Manslaughter.~~

18 ~~(t) Assault or aggravated assault.~~

19 ~~(u) Exploitation of minors involving drug offenses.~~

20 ~~(v) A violation of section 28-1381, 28-1382 or 28-1383.~~

21 ~~(w) Offenses involving domestic violence.~~

22 2. They have not been denied a license to operate a shelter for cause  
23 in this state or another state or had a license to operate a shelter revoked.

24 C. The notarized forms are confidential.

25 D. The shelter shall make good faith efforts to contact previous  
26 employers to obtain information or recommendations that may be relevant to  
27 an individual's fitness to work in the shelter.

28 E. The department of health services shall notify the department of  
29 public safety if the department of health services receives credible evidence  
30 that a person who possesses a valid class one or class two fingerprint  
31 clearance card either:

32 1. Is arrested for or charged with an offense listed in section  
33 41-1758.03, subsection B or F.

34 2. Falsified information on the form required by subsection B of this  
35 section.

36 Sec. 5. Section 41-619.53, Arizona Revised Statutes, is amended to  
37 read:

38 41-619.53. Board of fingerprinting; powers and duties;  
39 personnel; liability

40 A. The board of fingerprinting shall:

41 1. Determine good cause exceptions pursuant to section 41-619.55.

42 2. Adopt rules to implement this article, including rules to establish  
43 good cause exceptions for the issuance of class one and class two fingerprint  
44 clearance cards pursuant to section 41-1758.03. ~~The rules shall establish~~  
45 ~~specific good cause exceptions for persons requesting hearings pursuant to~~

1 ~~section 36-411, subsection I and procedures and standards for granting these~~  
2 ~~good cause exceptions. This rule making is exempt from the requirements of~~  
3 ~~chapter 6 of this title.~~

4 3. Administer and enforce this article and rules adopted pursuant to  
5 this article.

6 4. Furnish a copy of its rules to all applicants who petition the  
7 board for a good cause exception pursuant to section 41-1758.03 and, on  
8 request, to licensees, contract providers and state agencies.

9 B. If the board members unanimously agree to grant a good cause  
10 exception, the board shall request in writing that the department of public  
11 safety issue a card to the applicant. If the board does not make a unanimous  
12 decision, a card shall not be issued to the applicant.

13 C. Each board member shall determine on behalf of the member's  
14 respective agency or division whether a person should be granted a good cause  
15 exception.

16 D. If a person is required to be fingerprinted as a condition of  
17 employment by more than one agency and the person would not serve a common  
18 population and no common good cause exception standard exists, each board  
19 member shall determine for the purposes of the member's agency alone whether  
20 a good cause exception should be granted and shall notify the department of  
21 public safety to issue the person a card. The board shall request in writing  
22 that the department of public safety designate on the fingerprint clearance  
23 card the agency or agencies that approve a good cause exception.

24 E. The board may employ clerical, professional and technical personnel  
25 subject to appropriated monies and shall prescribe their duties and determine  
26 their compensation.

27 F. Members of the board are not liable for acts done or actions taken  
28 by any board member if the members act in good faith following the  
29 requirements of this article.

30 Sec. 6. Section 41-1758.01, Arizona Revised Statutes, is amended to  
31 read:

32 41-1758.01. Fingerprinting division; duties

33 The fingerprinting division is established in the department of public  
34 safety and shall:

35 1. Conduct fingerprint background checks for persons and applicants  
36 who are seeking employment with licensees, contract providers and state  
37 agencies that require fingerprint background checks pursuant to sections  
38 8-322, 15-534, 15-1330, 36-411, 36-425.03, 36-594.01, 36-882, 36-883.02,  
39 36-897.01, 36-897.03, 36-3008, 41-1964 and 41-2814, section 46-141,  
40 subsection A and section 46-321.

41 2. Issue fingerprint clearance cards.

42 3. Inform in writing each person who submits fingerprints for a  
43 fingerprint background check of the person's right to petition the board of  
44 fingerprinting for a good cause exception pursuant to section 41-1758.03.

45 4. Administer and enforce this article.

1       Sec. 7. Section 41-1758.02, Arizona Revised Statutes, is amended to  
2 read:

3       41-1758.02. Fingerprint checks; registration

4       A. The person, provider or agency shall submit a full set of  
5 fingerprints to the division for the purpose of obtaining a state and  
6 ~~national~~ FEDERAL criminal HISTORY records check pursuant to section 41-1750  
7 and Public Law 92-544. IF THE PERSON CAN PRESENT A VALID FINGERPRINT  
8 CLEARANCE CARD OR CREDIBLE DOCUMENTATION THAT THE PERSON'S APPLICATION FOR  
9 A FINGERPRINT CLEARANCE CARD IS PENDING, THE PERSON, PROVIDER OR AGENCY IS  
10 NOT REQUIRED TO SUBMIT ANOTHER APPLICATION FOR A FINGERPRINT CLEARANCE CARD.  
11 The division may exchange this fingerprint data with the federal bureau of  
12 investigation.

13       B. The person shall submit a new set of fingerprints to the division  
14 for a fingerprint background check every three years. The division shall  
15 conduct a new state and ~~national~~ FEDERAL criminal HISTORY records check on  
16 application for a new card.

17       C. In order to obtain a fingerprint clearance card, a person shall  
18 ~~register on a form~~ SUBMIT A COMPLETED APPLICATION FOR A FINGERPRINT CLEARANCE  
19 CARD provided by the ~~licensing or contracting state agency~~ DIVISION. The  
20 ~~form shall request the following information:~~

21       ~~1. The agency, agencies or agency divisions that will be licensing or~~  
22 ~~employing the person.~~

23       ~~2. Any other information that the division deems necessary.~~

24       D. The person, provider or agency shall submit the form APPLICATION  
25 required by subsection C of this section along with the fingerprints to the  
26 division for a criminal history records check.

27       Sec. 8. Section 41-1758.03, Arizona Revised Statutes, is amended to  
28 read:

29       41-1758.03. Fingerprint clearance cards; issuance

30       A. On receiving the state and federal criminal history record of a  
31 person, the division shall compare the record with the list of criminal  
32 offenses that preclude the person from receiving a class one fingerprint  
33 clearance card. If the person's criminal history record does not contain any  
34 of the offenses listed in subsections B and C of this section, the division  
35 shall issue the person a class one fingerprint clearance card.

36       B. A person who is awaiting trial on or who has been convicted of  
37 committing OR ATTEMPTING TO COMMIT one or more of the following offenses in  
38 this state or THE SAME OR similar offenses in another state or jurisdiction  
39 is precluded from receiving a class one fingerprint clearance card:

- 40       1. Sexual abuse of a minor.
- 41       2. Sexual abuse of a vulnerable adult.
- 42       3. Incest.
- 43       4. First or second degree murder.
- 44       5. Kidnapping.
- 45       6. ~~Arson.~~

- ~~7.~~ 6. Sexual assault.
- ~~8.~~ 7. Sexual exploitation of a minor.
- ~~9.~~ 8. Sexual exploitation of a vulnerable adult.
- ~~10.~~ 9. Commercial sexual exploitation of a minor.
- ~~11.~~ 10. Commercial sexual exploitation of a vulnerable adult.
- ~~12.~~ 11. Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs.
- ~~13.~~ 12. Robbery.
- ~~14.~~ 13. Child prostitution as prescribed in section 13-3212.
- ~~15.~~ 14. Child abuse.
- ~~16.~~ 15. Abuse of a vulnerable adult.
- ~~17.~~ 16. Sexual conduct with a minor.
- ~~18.~~ 17. Molestation of a child.
- ~~19.~~ 18. Molestation of a vulnerable adult.
- ~~20.~~ ~~Manslaughter.~~
- ~~21.~~ 19. Aggravated assault.
- ~~22.~~ 20. A dangerous crime against children as defined in section 13-604.01.
- ~~23.~~ 21. Exploitation of minors involving drug offenses.
- ~~24.~~ 22. Felony offenses involving contributing to the delinquency of a minor.
- ~~25.~~ 23. Taking a child for the purposes of prostitution as defined in section 13-3206.
24. NEGLECT OR ABUSE OF A VULNERABLE ADULT.
- C. A person who is awaiting trial on or who has been convicted of committing OR ATTEMPTING TO COMMIT one or more of the following offenses IN THIS STATE OR THE SAME OR SIMILAR OFFENSES IN ANOTHER STATE OR JURISDICTION is precluded from receiving a class one fingerprint clearance card, except that the person may petition the board of fingerprinting for a good cause exception pursuant to section 41-619.55:
  1. MANSLAUGHTER.
  - ~~1.~~ 2. Endangerment.
  - ~~2.~~ 3. Threatening or intimidating.
  - ~~3.~~ 4. Assault.
  - ~~4.~~ 5. Unlawfully administering intoxicating liquors, narcotic drugs or dangerous drugs.
  - ~~5.~~ ~~Assault by prisoners with intent to incite a riot or participate in a riot.~~
  6. Assault by vicious animals.
  7. Drive by shooting.
  8. Assaults on officers or fire fighters.
  9. Discharging a firearm at a structure.
  10. Indecent exposure.
  11. Public sexual indecency.

1       12. Lewd and lascivious acts.  
2       ~~13. Criminal damage.~~  
3       ~~14.~~ 13. Aggravated criminal damage.  
4       ~~15.~~ 14. Theft.  
5       ~~16. Unlawful use of means of transportation.~~  
6       ~~17.~~ 15. Theft by extortion.  
7       ~~18.~~ 16. Shoplifting.  
8       ~~19. Unlawful failure to return rented property.~~  
9       ~~20. Issuing a bad check.~~  
10       ~~21.~~ 17. Forgery.  
11       ~~22.~~ 18. Criminal possession of a forgery device.  
12       ~~23.~~ 19. Obtaining a signature by deception.  
13       ~~24.~~ 20. Criminal impersonation.  
14       ~~25.~~ 21. Theft of a credit card or obtaining a credit card by  
15 fraudulent means.  
16       ~~26.~~ 22. Receipt of anything of value obtained by fraudulent use of a  
17 credit card.  
18       ~~27.~~ 23. Forgery of a credit card.  
19       ~~28.~~ 24. Fraudulent use of a credit card.  
20       ~~29.~~ 25. Possession of any machinery, plate or other contrivance or  
21 incomplete credit card.  
22       ~~30.~~ 26. False statement as to financial condition or identity to  
23 obtain a credit card.  
24       ~~31.~~ 27. Fraud by persons authorized to provide goods or services.  
25       ~~32.~~ 28. Credit card transaction record theft.  
26       ~~33. Bribery of a public servant.~~  
27       ~~34. Trading in public office.~~  
28       ~~35. Commercial bribery.~~  
29       ~~36. Improper influence on a public officer or employee for~~  
30 ~~consideration.~~  
31       ~~37.~~ 29. Misconduct involving weapons.  
32       ~~38.~~ 30. Misconduct involving explosives.  
33       ~~39.~~ 31. Depositing explosives.  
34       ~~40.~~ 32. Misconduct involving simulated explosive devices.  
35       ~~41.~~ 33. Concealed weapon violation.  
36       ~~42.~~ 34. Enticement of any persons for purposes of prostitution.  
37       ~~43.~~ 35. Procurement by false pretenses of any person for purposes of  
38 prostitution.  
39       ~~44.~~ 36. Procuring or placing persons in a house of prostitution.  
40       ~~45.~~ 37. Receiving earnings of a prostitute.  
41       ~~46.~~ 38. Causing one's spouse to become a prostitute.  
42       ~~47.~~ 39. Detention of persons in a house of prostitution for debt.  
43       ~~48.~~ 40. Keeping or residing in a house of prostitution or employment  
44 in prostitution.  
45       ~~49.~~ 41. Pandering.

1       ~~50.~~ 42. Transporting persons for the purpose of prostitution or other  
2 immoral purposes.

3       ~~51.~~ 43. Possession and sale of peyote.

4       ~~52.~~ 44. Possession and sale of a vapor-releasing substance containing  
5 a toxic substance.

6       ~~53.~~ 45. Sale of precursor chemicals.

7       ~~54.~~ 46. Possession, use or sale of marijuana, dangerous drugs or  
8 narcotic drugs.

9       ~~55.~~ 47. Manufacture or distribution of an imitation controlled  
10 substance.

11       ~~56.~~ 48. Manufacture or distribution of an imitation prescription-only  
12 drug.

13       ~~57.~~ 49. Manufacture or distribution of an imitation over-the-counter  
14 drug.

15       ~~58.~~ 50. Possession or possession with intent to use an imitation  
16 controlled substance.

17       ~~59.~~ 51. Possession or possession with intent to use an imitation  
18 prescription-only drug.

19       ~~60.~~ 52. Possession or possession with intent to use an imitation  
20 over-the-counter drug.

21       ~~61.~~ 53. Manufacture of certain substances and drugs by certain means.

22       ~~62.~~ 54. Adding poison or other harmful substance to food, drink or  
23 medicine.

24       ~~63.~~ ~~Dropping objects from an overpass.~~

25       ~~64.~~ 55. A criminal offense involving criminal trespass and burglary  
26 under title 13, chapter 15.

27       ~~65.~~ ~~A criminal offense involving business and commercial frauds under~~  
28 ~~title 13, chapter 22.~~

29       ~~66.~~ 56. A criminal offense involving organized crime and fraud under  
30 title 13, chapter 23.

31       ~~67.~~ 57. Child neglect.

32       ~~68.~~ ~~Neglect of a vulnerable adult.~~

33       ~~69.~~ 58. Misdemeanor offenses involving contributing to the  
34 delinquency of a minor.

35       ~~70.~~ 59. A violation of section 28-1381, 28-1382 or 28-1383.

36       ~~71.~~ 60. Offenses involving domestic violence.

37       61. ARSON.

38       D. Notwithstanding subsection C of this section, on receiving written  
39 notice from the board of fingerprinting that a good cause exception was  
40 granted pursuant to section 41-619.55, the division shall issue a class one  
41 fingerprint clearance card to the person.

42       E. If a person is precluded from receiving a class one fingerprint  
43 clearance card pursuant to subsection B or C of this section, the division  
44 shall compare the employee's criminal history record with the list of  
45 criminal offenses that preclude the person from receiving a class two



1 fingerprint clearance card. If the person's criminal history record does not  
2 contain any of the offenses listed in subsections F and G of this section,  
3 the division shall issue the person a class two fingerprint clearance card.

4 F. A person who is awaiting trial on or who has been convicted of  
5 committing OR ATTEMPTING TO COMMIT one or more of the following offenses in  
6 this state or THE SAME OR similar offenses in another state or jurisdiction  
7 is precluded from receiving a class two fingerprint clearance card:

- 8 1. Sexual abuse of a minor.
- 9 2. Incest.
- 10 3. First or second degree murder.
- 11 4. Sexual assault.
- 12 5. Sexual exploitation of a minor.
- 13 6. Commercial sexual exploitation of a minor.
- 14 7. A dangerous crime against children as defined in section  
15 13-604.01.
- 16 8. Child abuse.
- 17 9. Sexual conduct with a minor.
- 18 10. Molestation of a child.
- 19 11. Exploitation of minors involving drug offenses.
- 20 12. SEXUAL ABUSE OF A VULNERABLE ADULT.
- 21 13. SEXUAL EXPLOITATION OF A VULNERABLE ADULT.
- 22 14. COMMERCIAL SEXUAL EXPLOITATION OF A VULNERABLE ADULT.
- 23 15. CHILD PROSTITUTION AS PRESCRIBED IN SECTION 13-3212.
- 24 16. ABUSE OF A VULNERABLE ADULT.
- 25 17. MOLESTATION OF A VULNERABLE ADULT.
- 26 18. TAKING A CHILD FOR THE PURPOSES OF PROSTITUTION AS PRESCRIBED IN  
27 SECTION 13-3206.
- 28 19. NEGLECT OF A VULNERABLE ADULT.

29 G. A person who is awaiting trial on or who has been convicted of  
30 committing OR ATTEMPTING TO COMMIT one or more of the following offenses IN  
31 THIS STATE OR THE SAME OR SIMILAR OFFENSES IN ANOTHER STATE OR JURISDICTION  
32 is precluded from receiving a class two fingerprint clearance card, except  
33 that the person may petition the board of fingerprinting for a good cause  
34 exception pursuant to section 41-619.55:

- 35 1. Arson.
- 36 2. Felony offenses involving contributing to the delinquency of a  
37 minor.
- 38 3. Felony offenses involving sale, distribution or transportation of,  
39 offer to sell, transport or distribute or conspiracy to sell, transport or  
40 distribute marijuana, dangerous drugs or narcotic drugs.
- 41 4. Felony offenses involving the possession or use of marijuana,  
42 dangerous drugs or narcotic drugs.
- 43 5. Burglary.
- 44 6. Aggravated or armed robbery.
- 45 7. Robbery.

- 1           8. Kidnapping.
- 2           9. Manslaughter.
- 3           10. Assault or aggravated assault.
- 4           11. A violation of section 28-1381, 28-1382 or 28-1383.
- 5           12. Offenses involving domestic violence.
- 6           13. A CRIMINAL OFFENSE INVOLVING ORGANIZED CRIME AND FRAUD UNDER TITLE
- 7 13, CHAPTER 23.

8           H. Notwithstanding subsection G of this section, on receiving written  
9 notice from the board of fingerprinting that a good cause exception was  
10 granted pursuant to section 41-619.55, the division shall issue a class two  
11 fingerprint clearance card to the person.

12           I. If the division denies a person's application for a class one or  
13 class two fingerprint clearance card pursuant to subsection C or G of this  
14 section and a good cause exception is requested pursuant to section  
15 41-619.55, the division shall release the person's criminal history record  
16 to the board of fingerprinting.

17           J. A person shall be granted a fingerprint clearance card if either  
18 of the following applies:

19           1. An agency granted a good cause exception before August 16, 1999  
20 and no new crime is identified. The fingerprint clearance card shall specify  
21 only the program that granted the good cause exception. On the request of  
22 the applicant, the agency that granted the prior good cause exception shall  
23 notify the division in writing of the date on which the prior good cause  
24 exception was granted and the date of the conviction and the name of the  
25 offense for which the good cause exception was granted.

26           2. The board granted a good cause exception and no new crime is  
27 identified. The fingerprint clearance card shall specify the programs for  
28 which the board granted the good cause exception.

29           K. The licensee or contract provider shall assume the costs of  
30 fingerprint checks and may charge these costs to persons required to be  
31 fingerprinted.

32           L. A person who is under eighteen years of age or who is at least  
33 ninety-nine years of age is exempt from the fingerprint clearance card  
34 requirements of this section. At all times the person shall be under the  
35 direct visual supervision of personnel who have valid fingerprint clearance  
36 cards.

37           M. The division may conduct periodic state criminal history record  
38 RECORDS checks for the purpose of updating the clearance status of current  
39 fingerprint clearance card holders and may notify the board of fingerprinting  
40 and the agency employing the person of the results of the records check.

41           N. The division shall maintain the fingerprint records of an  
42 individual who has received a fingerprint clearance card pursuant to section  
43 15-534 until the individual reaches the age of ninety-nine or two years after  
44 the division is notified that the individual is deceased or until the  
45 division is notified by the state board of education of the expiration of the

1 individual's certificate. The state board of education shall notify the  
2 division of the expiration of an individual's certificate within sixty days  
3 of the expiration of the individual's certificate. The division shall  
4 include these records in the periodic state criminal history record RECORDS  
5 checks conducted pursuant to subsection M of this section.

6 O. The division shall revoke a person's fingerprint clearance card on  
7 receipt of a written request for revocation from the board of fingerprinting  
8 pursuant to section 41-619.55.

9 P. The division shall not issue a class one or class two fingerprint  
10 clearance card to a person if the division cannot determine, within fifteen  
11 business days after receipt of the person's state and federal criminal  
12 history record information, whether the person is awaiting trial on or has  
13 been convicted of committing any of the offenses listed in subsection B, C,  
14 F or G of this section. If the division is unable to make the determination  
15 required by this section and does not issue a class one or class two  
16 fingerprint clearance card to a person, the person may request a good cause  
17 exception pursuant to section 41-619.55.

18 Q. If after conducting a state and federal criminal history record  
19 check the division determines that it is not authorized to issue a class one  
20 or class two fingerprint clearance card to a person, the division shall  
21 notify the agency that licenses or employs the person that the division is  
22 not authorized to issue a fingerprint clearance card.

23 R. The division is not liable for damages resulting from:

24 1. The issuance of a fingerprint clearance card to a person who is  
25 later found to have been ineligible to receive a fingerprint clearance card  
26 at the time the card was issued.

27 2. The denial of a fingerprint clearance card to a person who is  
28 later found to have been eligible to receive a fingerprint clearance card at  
29 the time issuance of the card was denied.

30 S. The issuance of a class one or class two fingerprint clearance  
31 card does not entitle a person to employment.

32 ~~T. If a court of competent jurisdiction sets aside a judgment of~~  
33 ~~guilt pursuant to section 13-907 for a person who was convicted of an offense~~  
34 ~~listed in subsection B, C, F, or G of this section, the person shall be~~  
35 ~~issued a valid fingerprint clearance card unless a new crime is identified.~~

36 Sec. 9. Section 41-1964, Arizona Revised Statutes, is amended to read:

37 41-1964. Day care homes; child care personnel; fingerprints;  
38 definition

39 A. Child care personnel shall have valid class one or class two  
40 fingerprint clearance cards issued pursuant to chapter 12, article 3.1 of  
41 this title or shall apply for a class one or class two fingerprint clearance  
42 card no later than seven working days from the date of certification by the  
43 department or within seven working days after residing or working in the home  
44 of a child care home provider or being designated as a backup provider.

1           B. Before certification or within seven working days after residing  
2 or working in the home of a child care provider or being designated as a  
3 backup provider, child care personnel shall certify on forms that are  
4 provided by the department and notarized whether:

5           1. They are awaiting trial on or have been convicted of or admitted  
6 committing any of the following criminal offenses PURSUANT TO SECTION  
7 41-1758.03, SUBSECTIONS F AND G in this state or similar offenses in another  
8 state or jurisdiction. :

9           ~~(a) Sexual abuse of a minor.~~

10          ~~(b) Incest.~~

11          ~~(c) First or second degree murder.~~

12          ~~(d) Kidnapping.~~

13          ~~(e) Arson.~~

14          ~~(f) Sexual assault.~~

15          ~~(g) Sexual exploitation of a minor.~~

16          ~~(h) Felony offenses involving contributing to the delinquency of a~~  
17 ~~minor.~~

18          ~~(i) Commercial sexual exploitation of a minor.~~

19          ~~(j) Felony offenses involving sale, distribution or transportation of,~~  
20 ~~offer to sell, transport or distribute or conspiracy to sell, transport or~~  
21 ~~distribute marijuana, dangerous drugs or narcotic drugs.~~

22          ~~(k) Felony offenses involving the possession or use of marijuana,~~  
23 ~~dangerous drugs or narcotic drugs.~~

24          ~~(l) Burglary.~~

25          ~~(m) Aggravated or armed robbery.~~

26          ~~(n) Robbery.~~

27          ~~(o) A dangerous crime against children as defined in section~~  
28 ~~13-604.01.~~

29          ~~(p) Child abuse.~~

30          ~~(q) Sexual conduct with a minor.~~

31          ~~(r) Molestation of a child.~~

32          ~~(s) Manslaughter.~~

33          ~~(t) Assault or aggravated assault.~~

34          ~~(u) Exploitation of minors involving drug offenses.~~

35          ~~(v) A violation of section 28-1381, 28-1382 or 28-1383.~~

36          ~~(w) Offenses involving domestic violence.~~

37           2. They are parents or guardians of a child adjudicated to be a  
38 dependent child as defined in section 8-201.

39           3. They have been denied a license to operate a facility for the care  
40 of children for cause in this state or another state or had a license or  
41 certificate to operate such a facility revoked.

42           C. The department shall make documented, good faith efforts to contact  
43 previous employers of certified day care home personnel to obtain information  
44 or recommendations that may be relevant to an individual's fitness for work  
45 in a certified day care home.

1 D. The notarized forms are confidential.

2 E. The department of economic security shall notify the department of  
3 public safety if the department of economic security receives credible  
4 evidence that any child care personnel who possesses a valid class one or  
5 class two fingerprint clearance card either:

6 1. Is arrested for or charged with an offense listed in section  
7 41-1758.03, subsection B or F.

8 2. Falsified information on the form required by subsection B of this  
9 section.

10 F. For the purposes of this section, "child care personnel" means  
11 child care home providers, in-home providers and noncertified relative  
12 providers as defined in section 46-801 and designated backup providers and  
13 all persons who are eighteen years of age or older and who work or reside in  
14 the home of a child care home provider.

15 Sec. 10. Section 41-1967, Arizona Revised Statutes, is amended to  
16 read:

17 41-1967. Child care resource and referral system

18 A. The department shall establish and maintain a statewide child care  
19 resource and referral system through community-based organizations to:

20 1. Provide families with:

21 (a) Information on all types of child care.

22 (b) Referrals to child care providers and programs.

23 (c) Information about child care resources and services.

24 (d) Information about choosing child care.

25 2. Assist child care providers and programs with:

26 (a) Information on training related to child care issues.

27 (b) Technical assistance that relates to initiating or providing child  
28 care services.

29 (c) Parent referrals.

30 3. Coordinate with the community to:

31 (a) Develop statistics of the demand for and supply of child care.

32 (b) Maintain ongoing relationships with all local groups interested  
33 in child care.

34 B. The child care resource and referral system shall:

35 1. Identify all available child care providers and programs through  
36 coordination with public and private agencies.

37 2. Collect in a uniform method provider information for the referral  
38 data base that includes:

39 (a) The type of program.

40 (b) The hours of service.

41 (c) The ages of children served.

42 (d) Fees for service.

43 (e) Other significant provider and program information.

1           3. Establish and maintain a referral process that responds to parental  
2 need for information. The child care resource and referral system shall make  
3 referrals to child care providers and programs that:

4           (a) Promote parental choice and meet the needs of families.

5           (b) Are included in the resource and referral data base.

6           4. Collect in a uniform method family information for the referral  
7 data base that includes the:

8           (a) Number of calls and contacts.

9           (b) Ages of children in need of care.

10          (c) Days and times of care requested.

11          (d) Type of care requested.

12          (e) Special needs and requests made by the family.

13          (f) Reason that the care is needed.

14          5. Provide outreach services that include:

15          (a) Efforts to reach parents and providers in local communities.

16          (b) Involvement in the local communities.

17          (c) Publication of services through all available media sources,  
18 agencies and other appropriate channels.

19          6. Provide technical assistance to existing and prospective child care  
20 providers and programs that include:

21          (a) Information on all aspects of initiating new child care services  
22 including child care regulations, zoning, program and budget development and  
23 assistance in finding information from other sources.

24          (b) Educational information and resources that assist existing child  
25 care providers and programs to better serve the children and parents in their  
26 community.

27          (c) Local coordination of existing child care and child related  
28 services.

29          C. The following child care providers are eligible to be considered  
30 for inclusion in the child care resource and referral data base, unless  
31 barred by other provisions of law:

32           1. Child care providers licensed, certified or approved by a  
33 government agency which is authorized by law to license, certify or approve  
34 child care providers.

35           2. Child care providers not licensed, certified or approved by a  
36 government agency. These providers shall submit and amend when necessary  
37 sworn, written statements to the department or its designees, on forms  
38 approved by the department, attesting that the provider is not subject to  
39 exclusion or removal from the child care resource and referral data base  
40 under any of the grounds specified in subsection E of this section.

41          D. Child care providers identified in subsection C, paragraph 1 of  
42 this section may be excluded or removed from the child care resource and  
43 referral data base whenever the provider's license, certification or approval  
44 is revoked, terminated or suspended, or when a child care facility is closed  
45 for cause.

1 E. Child care providers identified in subsection C, paragraph 2 of  
2 this section may be excluded or removed from the child care resource and  
3 referral data base when:

4 1. The provider is not qualified to furnish child care services  
5 without a license, certification or alternative state agency approval.

6 2. The provider has been denied a license to operate a facility for  
7 the care of children or had a license or certificate to operate such a  
8 facility revoked in this state or in any other state or jurisdiction.

9 3. The provider, the provider's employees or any person eighteen years  
10 of age or older who resides in the provider's child care facility has been  
11 convicted of or is awaiting trial on any of the criminal offenses listed in  
12 ~~section 41-1964, subsection B, paragraph 1~~ PURSUANT TO SECTION 41-1758.03,  
13 SUBSECTIONS F AND G in this state or similar criminal offenses in any other  
14 state or jurisdiction.

15 4. The provider, the provider's employees or any person who resides  
16 in the provider's child care facility has been the subject of a child abuse  
17 or neglect investigation which:

18 (a) Has been substantiated by a child protective services agency or  
19 a law enforcement agency in this state or in any other state or jurisdiction.

20 (b) Would disqualify the provider from being certified pursuant to  
21 section 46-807.

22 F. Nothing in this section is meant to create an affirmative  
23 obligation on the part of any state agency or any child care resource and  
24 referral agency to review, monitor or investigate child care providers and  
25 programs.

26 G. Neither this state nor its officers or employees, acting within the  
27 scope of their employment, shall be liable for any damage or injury caused  
28 by their conduct pursuant to this section, except for gross negligence or  
29 conduct intended to cause injury.

30 H. Neither a child care resource and referral agency nor its officers  
31 and employees, acting within the scope of their employment, shall be liable  
32 for any damage or injury caused by their conduct pursuant to this section,  
33 except for gross negligence or conduct intended to cause injury.

34 I. The department shall adopt rules which are consistent with the  
35 terms of this section.

36 Sec. 11. Section 41-2814, Arizona Revised Statutes, is amended to  
37 read:

38 41-2814. Fingerprinting personnel; exception; violation;  
39 classification; definition

40 A. All employees of the department and all contract service providers  
41 that provide services primarily on department premises shall be  
42 fingerprinted. These individuals shall submit fingerprints and the form  
43 prescribed in subsection F of this section within seven days after the date  
44 of employment. Employment with the department is conditioned on the results

1 of the fingerprint check. Fingerprint checks shall be conducted pursuant to  
2 section 41-1750, subsection G, paragraph 1.

3 B. Except as provided in subsection A of this section, ~~an A PAID OR~~  
4 ~~UNPAID~~ employee of a licensee or contract provider ~~who is paid or unpaid and~~  
5 who has direct contact with committed youth shall have a valid class one or  
6 class two fingerprint clearance card issued pursuant to chapter 12, article  
7 3.1 of this title or shall apply for a class one or class two fingerprint  
8 clearance card within seven days of beginning employment.

9 C. A service contract or license with any contract provider or  
10 licensee that involves the employment of persons who have direct contact with  
11 committed youth shall provide that the contract or license may be canceled  
12 or terminated immediately if a person certifies pursuant to subsection F of  
13 this section that the person is awaiting trial on or has been convicted of  
14 any of the offenses listed in subsection F of this section in this  
15 jurisdiction or acts committed in another jurisdiction that would be offenses  
16 in this jurisdiction or if the person does not possess or is denied issuance  
17 of a valid fingerprint clearance card.

18 D. A contract provider or licensee may avoid cancellation or  
19 termination of the contract or license under subsection C of this section if  
20 a person who does not possess or has been denied issuance of a valid  
21 fingerprint clearance card or who certifies pursuant to subsection F of this  
22 section that the person has been convicted of or is awaiting trial on any of  
23 the offenses listed in subsection F, paragraphs 1, 2, 3, 6, 7, 9, 15 through  
24 18 and 21 of this section is immediately prohibited from employment or  
25 service with the contract provider or licensee in any capacity requiring or  
26 allowing direct contact with committed youth.

27 E. A contract provider or licensee may avoid cancellation or  
28 termination of the contract or license under subsection C of this section if  
29 a person who does not possess or has been denied issuance of a valid  
30 fingerprint clearance card or who certifies pursuant to subsection F of this  
31 section that the person has been convicted of or is awaiting trial on any of  
32 the offenses listed in subsection F, paragraphs 4, 5, 8, 10 through 14, 19,  
33 20, 22 and 23 of this section is immediately prohibited from employment or  
34 service with the contract provider or licensee in any capacity requiring or  
35 allowing direct contact with committed youth unless the employee is granted  
36 a good cause exception pursuant to section 41-619.55.

37 F. Personnel who are employed by the department and contract  
38 personnel who have direct contact with committed youth shall certify on forms  
39 provided by the department and notarized whether they are awaiting trial on  
40 or have ever been convicted of or committed any of the following criminal  
41 offenses in this state or similar offenses in another state or jurisdiction:

- 42 1. Sexual abuse of a minor.
- 43 2. Incest.
- 44 3. First or second degree murder.
- 45 4. Kidnapping.



- 1           5. Arson.
- 2           6. Sexual assault.
- 3           7. Sexual exploitation of a minor.
- 4           8. Felony offenses involving contributing to the delinquency of a
- 5 minor.
- 6           9. Commercial sexual exploitation of a minor.
- 7           10. Felony offenses involving sale, distribution or transportation of,
- 8 offer to sell, transport or distribute or conspiracy to sell, transport or
- 9 distribute marijuana, dangerous drugs or narcotic drugs.
- 10          11. Felony offenses involving the possession or use of marijuana,
- 11 dangerous drugs or narcotic drugs.
- 12          12. Burglary.
- 13          13. Aggravated or armed robbery.
- 14          14. Robbery.
- 15          15. A dangerous crime against children as defined in section 13-604.01.
- 16          16. Child abuse.
- 17          17. Sexual conduct with a minor.
- 18          18. Molestation of a child.
- 19          19. Manslaughter.
- 20          20. Assault or aggravated assault.
- 21          21. Exploitation of minors involving drug offenses.
- 22          22. A violation of section 28-1381, 28-1382 or 28-1383.
- 23          23. Offenses involving domestic violence.
- 24          G. The department shall make documented, good faith efforts to
- 25 contact previous employers of personnel to obtain information or
- 26 recommendations that may be relevant to an individual's fitness for
- 27 employment.
- 28          H. Hospital employees, licensed medical personnel, staff and
- 29 volunteers who provide services to juveniles in a health care facility
- 30 located outside the secure care facility and who are under the direct visual
- 31 supervision as is medically reasonable of the department's employees or the
- 32 department's contracted security employees are exempt from the fingerprinting
- 33 requirements of this section.
- 34          I. The department of juvenile corrections shall notify the department
- 35 of public safety if the department of juvenile corrections receives credible
- 36 evidence that a person who possesses a valid class one or class two
- 37 fingerprint clearance card either:
- 38            1. Is arrested for or charged with an offense listed in section
- 39 41-1758.03, subsection B or F.
- 40            2. Falsified information on the form required by subsection F of this
- 41 section.
- 42          J. A person who makes a false statement, representation or
- 43 certification in an application for employment with the department is guilty
- 44 of a class 3 misdemeanor.

1 K. For the purposes of this section, "employee" means paid and unpaid  
2 personnel who have direct contact with committed youth.

3 Sec. 12. Section 46-141, Arizona Revised Statutes, is amended to read:

4 46-141. Criminal record information checks and fingerprinting

5 of employees of the department and applicants

6 A. Each license granted by the department of economic security and  
7 each contract entered into between the department of economic security and  
8 any contract provider for the provision of services to juveniles shall  
9 provide that, as a condition of employment, personnel who are employed by the  
10 licensee or contractor, whether paid or not, and who are required or allowed  
11 to provide services directly to juveniles shall have a valid class one or  
12 class two fingerprint clearance card issued pursuant to title 41, chapter 12,  
13 article 3.1 or shall apply for a class one or class two fingerprint clearance  
14 card within seven working days of employment.

15 B. The licensee or contractor shall assume the costs of fingerprint  
16 checks and may charge these costs to its fingerprinted personnel. The  
17 department may allow all or part of the costs of fingerprint checks to be  
18 included as an allowable cost in a contract.

19 C. A service contract or license with any contract provider or  
20 licensee that involves the employment of persons who have contact with  
21 juveniles shall provide that the contract or license may be canceled or  
22 terminated immediately if a person certifies pursuant to subsections F and  
23 G of this section that the person is awaiting trial on or has been convicted  
24 of any of the offenses listed in subsections F and G of this section in this  
25 state or similar offenses in another state or jurisdiction or if the person  
26 does not possess or is denied issuance of a valid fingerprint clearance card.

27 D. A contract provider or licensee may avoid cancellation or  
28 termination of the contract or license under subsection C of this section if  
29 a person who does not possess or has been denied issuance of a valid  
30 fingerprint clearance card or who certifies pursuant to subsections F and G  
31 of this section that the person has been convicted of or is awaiting trial  
32 on any of the offenses listed in subsection F, paragraphs 1, 2, 3, 6, 7, 9,  
33 15 through 18 and 21 of this section is immediately prohibited from  
34 employment or service with the contract provider or licensee in any capacity  
35 requiring or allowing contact with juveniles.

36 E. A contract provider or licensee may avoid cancellation or  
37 termination of the contract or license under subsection C of this section if  
38 a person who does not possess or has been denied issuance of a valid  
39 fingerprint clearance card or who certifies pursuant to subsections F and G  
40 of this section that the person has been convicted of or is awaiting trial  
41 on any of the offenses listed in subsection F, paragraphs 4, 5, 8, 10 through  
42 14, 19, 20, 22 and 23 of this section is immediately prohibited from  
43 employment or service with the contract provider or licensee in any capacity  
44 requiring contact with juveniles unless the person is granted a good cause  
45 exception pursuant to section 41-619.55.

1 F. Personnel who are employed by any contract provider or licensee,  
2 whether paid or not, and who are required or allowed to provide services  
3 directly to juveniles shall certify on forms provided by the department of  
4 economic security and notarized whether they are awaiting trial on or have  
5 ever been convicted of any of the following criminal offenses PURSUANT TO  
6 SECTION 41-1758.03, SUBSECTIONS F AND G in this state or similar offenses in  
7 another state or jurisdiction. :

- 8 ~~1. Sexual abuse of a minor.~~
- 9 ~~2. Incest.~~
- 10 ~~3. First or second degree murder.~~
- 11 ~~4. Kidnapping.~~
- 12 ~~5. Arson.~~
- 13 ~~6. Sexual assault.~~
- 14 ~~7. Sexual exploitation of a minor.~~
- 15 ~~8. Felony offenses involving contributing to the delinquency of a~~  
16 ~~minor.~~
- 17 ~~9. Commercial sexual exploitation of a minor.~~
- 18 ~~10. Felony offenses involving sale, distribution or transportation of,~~  
19 ~~offer to sell, transport or distribute or conspiracy to sell, transport or~~  
20 ~~distribute marijuana, dangerous drugs or narcotic drugs.~~
- 21 ~~11. Felony offenses involving the possession or use of marijuana,~~  
22 ~~dangerous drugs or narcotic drugs.~~
- 23 ~~12. Burglary.~~
- 24 ~~13. Aggravated or armed robbery.~~
- 25 ~~14. Robbery.~~
- 26 ~~15. A dangerous crime against children as defined in section 13-604.01.~~
- 27 ~~16. Child abuse.~~
- 28 ~~17. Sexual conduct with a minor.~~
- 29 ~~18. Molestation of a child.~~
- 30 ~~19. Manslaughter.~~
- 31 ~~20. Assault or aggravated assault.~~
- 32 ~~21. Exploitation of minors involving drug offenses.~~
- 33 ~~22. A violation of section 28-1381, 28-1382 or 28-1383.~~
- 34 ~~23. Offenses involving domestic violence.~~

35 G. Personnel who are employed by any contract provider or licensee,  
36 whether paid or not, and who are required or allowed to provide services  
37 directly to juveniles shall certify on forms provided by the department of  
38 economic security and notarized whether they have ever committed any act of  
39 sexual abuse of a child, including sexual exploitation and commercial sexual  
40 exploitation, or any act of child abuse.

41 H. Federally recognized Indian tribes or military bases may submit and  
42 the department of economic security shall accept certifications that state  
43 that personnel who are employed or who will be employed during the contract  
44 term have not been convicted of, have not admitted committing or are not  
45 awaiting trial on any offense under subsection F of this section.

1 I. A person who applies to the department of economic security for a  
2 license or certificate or for paid or unpaid employment, including contract  
3 services, and who will provide direct services to juveniles or vulnerable  
4 adults shall submit a full set of fingerprints to the department for the  
5 purpose of obtaining a state and federal criminal records check pursuant to  
6 section 41-1750 and Public Law 92-544. the department of public safety may  
7 exchange this fingerprint data with the federal bureau of investigation.

8 J. The special services unit of the department of economic security  
9 may use the department of public safety automated system to update all  
10 criminal history record information in order to ensure, to the maximum extent  
11 reasonably possible, complete disposition information. The department of  
12 economic security may deny employment or issuance or renewal of the contract  
13 or license applied for in these cases if it determines that the criminal  
14 history record information indicates that such employee, applicant or  
15 contractor is not qualified or suitable.

16 K. Volunteers who provide services to juveniles under the direct  
17 visual supervision of the contractor's or licensee's employees are exempt  
18 from the fingerprinting requirements of this section.

19 L. The department of economic security shall notify the department of  
20 public safety if the department of economic security receives credible  
21 evidence that a person who possesses a valid class one or class two  
22 fingerprint clearance card pursuant to subsection A of this section either:

23 1. Is arrested for or charged with an offense listed in section  
24 41-1758.03, subsection B or F.

25 2. Falsified information on the form required by subsection F of this  
26 section.

27 Sec. 13. Requirements for enactment; two-thirds vote


28 Pursuant to article IX, section 22, Constitution of Arizona, this act  
29 is effective only on the affirmative vote of at least two-thirds of the  
30 members of each house of the legislature and is effective immediately on the  
31 signature of the governor or, if the governor vetoes this act, on the  
32 subsequent affirmative vote of at least three-fourths of the members of each  
33 house of the legislature.

APPROVED BY THE GOVERNOR MAY 7, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2001.

2 Nays, 4 Not Voting

0 Nays, 2 Not Voting

  
\_\_\_\_\_  
President of the Senate

Charmion Bellington  
Secretary of the Senate

**S.B. 1281**

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate May 01, 2001,

by the following vote: 28 Ayes,

1 Nays, 1 Not Voting

with Article IX, Section 22  
Randall  
President of the Senate

Charmine Bell  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

1 day of May, 2001,

at 4:52 o'clock P M.

Sandra Ramirez  
Secretary to the Governor

APPROVED THIS 7<sup>th</sup> day of

May, 2001,

at 2:40 o'clock P M.

Jane Hull  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 7 day of May, 2001,

at 5:00 o'clock P M.

Betsy Bayless  
Secretary of State

S.B. 1281